

AMENDED IN ASSEMBLY APRIL 23, 2015

AMENDED IN ASSEMBLY APRIL 9, 2015

AMENDED IN ASSEMBLY MARCH 17, 2015

AMENDED IN ASSEMBLY MARCH 4, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 46

Introduced by Assembly Member Lackey

(Principal coauthors: Senators Galgiani, Nielsen, and Vidak)

(Coauthors: Assembly Members Travis Allen, Baker, Brough, Gallagher, Gonzalez, Hadley, Kim, Linder, Patterson, Rodriguez, Steinorth, Waldron, and Wilk)

(Coauthors: Senators Anderson, Bates, Huff, and Stone)

December 1, 2014

An act to add Sections 11350.5 and 11377.5 to the Health and Safety Code, relating to controlled ~~substances~~. *substances*.

LEGISLATIVE COUNSEL'S DIGEST

AB 46, as amended, Lackey. Controlled substances.

Existing law, as amended by the Safe Neighborhoods and Schools Act, a measure approved by the voters at the November 4, 2014, statewide general election, generally provides that the possession of Ketamine, gamma hydroxybutyric acid (GHB), or flunitrazepam is a misdemeanor, punishable by imprisonment in the county jail for not more than one year.

This bill would make it a felony, punishable by imprisonment in the state prison for 16 months or 2 or 3 years, to possess Ketamine, GHB,

or flunitrazepam with the intent to commit sexual assault. By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Ketamine, gamma hydroxybutyric acid (GHB), and
4 Rohypnol are drugs often characterized as “date rape” drugs.

5 (b) GHB is a central nervous system depressant that was
6 approved for the treatment of narcolepsy. GHB has no color or
7 taste, and is frequently combined with alcohol to commit sexual
8 assault.

9 (c) Ketamine causes unconsciousness, hallucinations, loss of
10 body control, and numbing. Ketamine works very quickly, so
11 victims drugged with Ketamine only have a few seconds to react
12 before losing consciousness.

13 (d) Rohypnol, also known by its chemical name of
14 flunitrazepam, and sometimes referred to as “roofies,” impairs
15 judgment and leaves victims drugged with Rohypnol physically
16 incapacitated. Memory loss and confusion under the influence of
17 this drug makes victims more vulnerable to rape.

18 (e) In order to deter the possession of Ketamine, GHB, and
19 Rohypnol by sexual predators and to take steps to prevent the use
20 of these drugs to incapacitate victims for purposes of sexual
21 exploitation, it is necessary and appropriate that an individual who
22 possesses one of these substances for predatory purposes be subject
23 to felony penalties.

24 SEC. 2. Section 11350.5 is added to the Health and Safety
25 Code, to read:

26 11350.5. (a) Except as otherwise provided in this division, a
27 person who possesses a controlled substance specified in paragraph
28 (3) of subdivision (e) of Section 11054 with the intent to commit

1 sexual assault shall be punished by imprisonment in the state prison
2 for 16 months, or two or three years.

3 (b) For purposes of this section, “sexual assault” includes, but
4 is not limited to, a violation of paragraph (3) of subdivision (a) of
5 Section 261 of the Penal Code, paragraph (2) of subdivision (a)
6 of Section 262 of the Penal Code, subdivision (i) of Section 286
7 of the Penal Code, subdivision (i) of Section 288a of the Penal
8 Code, or subdivision (e) of Section 289 of the Penal Code.

9 (c) *Nothing in this section shall preclude prosecution under any*
10 *other law.*

11 SEC. 3. Section 11377.5 is added to the Health and Safety
12 Code, to read:

13 11377.5. (a) Except as otherwise provided in this division, a
14 person who possesses a controlled substance specified in paragraph
15 (11) of subdivision (c) of, or subdivision (g) of, Section 11056, or
16 paragraph (13) of subdivision (d) of Section 11057 with the intent
17 to commit sexual assault shall be punished by imprisonment in
18 the state prison for 16 months, or two or three years.

19 (b) For purposes of this section, “sexual assault” includes, but
20 is not limited to, a violation of paragraph (3) of subdivision (a) of
21 Section 261 of the Penal Code, paragraph (2) of subdivision (a)
22 of Section 262 of the Penal Code, subdivision (i) of Section 286
23 of the Penal Code, subdivision (i) of Section 288a of the Penal
24 Code, or subdivision (e) of Section 289 of the Penal Code.

25 (c) *Nothing in this section shall preclude prosecution under any*
26 *other law.*

27 SEC. 4. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section 17556 of
33 the Government Code, or changes the definition of a crime within
34 the meaning of Section 6 of Article XIII B of the California
35 Constitution.